



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,700	01/22/2004	Patrick Adam Barry	RSW920030260US1	5205
36736	7590	06/06/2007		
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER RAYYAN, SUSAN F	
			ART UNIT 2167	PAPER NUMBER
			MAIL DATE 06/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/762,700	Applicant(s) ADAM BARRY ET AL.	
	Examiner Susan F. Rayyan	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-26 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, the limitation includes "each item" however it is unclear as to what are the items the limitation refers too.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter.

Claims 1-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 recites "a processor", " a memory ", "input device", short range transmitter...", "receiving ... a first set of ratings... < "receiving a second set of rating...", and "updating

Art Unit: 2167

the first set of ratings...". The claims do not provide a tangible result such as displaying the updated rating.

Claims 2-26 do not resolve the tangibility issue.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-11, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication Number 2002/0002920 issued to Andrew M. Prohel et al ("Prohel") in view of US Patent Number 6,631,184 issued to Moshe Weiner (Weiner").

As per independent claim 1 Prohel teaches:

a processor (Figure 6, paragraph 59, processor);

a memory connected to said processor (Figure 6);

an input device connected to said processor (paragraph 18, PDA, mobile phone, portable computer);

an output device connected to said processor (paragraph 18, PDA, mobile phone, portable computer);

Art Unit: 2167

and a short-range transceiver connected to said processor, said processor, said memory, said input device, said output device, and said transceiver being contained within a case configured for portability (paragraph 18, PDA, mobile phone, portable computer and paragraph 17, lines 6-8, wireless communication);

said processor being configured for receiving, from said input device, a first set of ratings for ... subject (paragraph 19-20, user history information editor to associate ratings and comments concerning digital content), receiving, through said transceiver, a second set of ratings for ... (paragraph 28, review received digital content having associated user history information) updating ones of said first set of ratings by merging with corresponding ones of said second set of ratings (paragraph 30, aggregate ratings).

Prohel does not explicitly teach "ones of plurality of subjects". Weiner does teach this limitation at column 2, lines 54-column 3, line 7, providing ratings and feed back with regard to products and services based on communities to enable users to receive ratings and feedback on products and services of interest at column 5, lines 5-10. It would have been obvious to one of ordinary skill in the art to modify Prohel with a plurality of subjects to enable users to receive ratings and feedback on products and services of interest at column 5, lines 5-10.

As per claim 2, same as claim arguments above and Prohel teaches:

wherein said transceiver uses Bluetooth technology (paragraph 17, line 8).

Art Unit: 2167

As per claim 3, same as claim arguments above and Prohel teaches:

wherein said transceiver uses WiFi technology (paragraph 17, line 9).

As per claim 4, same as claim arguments above and Weiner teaches:

wherein said processor is further configured for receiving, from said input device, a first set of indications of interest regarding additional ones of said plurality of subjects, whereby receipt of ratings is triggered for said additional ones of said plurality of subjects by said first set of indications of interest (column 10-15, create new category, column 9, lines 6-14, retrieve ratings/feedback).

As per claim 8, same as claim arguments above and Prohel teaches:

wherein said processor is further configured for adding comments from said second set of ratings into said first set of ratings (paragraph 29-30, view user history and aggregate ratings).

As per claim 9, same as claim arguments above and Prohel teaches:

wherein said device is from the group consisting of a personal digital assistant, a laptop computer, and a cellular phone (paragraph 18, lines 1-3, PDA, laptop, cell).

Art Unit: 2167

As per independent claim 10, Prohel teaches:

storing, on a portable computing device, a first set of ratings for ones of a plurality of subjects (paragraph 19-20, user history information editor to associate ratings and comments concerning digital content);

encountering, through a short-range transmission device, a user having a second set of ratings for ... (paragraph 28, review received digital content having associated user history information);

receiving, through said short-range transmission device, ones of said second set of ratings (paragraph 28, review received digital content having associated user history information);

and updating ones of said first set of ratings and ones of said first set of indications of interest by merging with corresponding ones of said second set of ratings (paragraph 30, aggregate ratings).

Prohel does not explicitly teach and a first set of indications of interest regarding additional ones of said plurality of subjects and ones of said plurality of subjects. Weiner does teach these limitations (column 10-15, create new category, column 9, lines 6-14, retrieve ratings/feedback) and (column 2, lines 54-column 3, line 7, providing ratings and feed back with regard to products and services based on communities) to enable users to receive ratings and feedback on products and services of interest at column 5, lines 5-10. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Prohel with and a first set of indications of interest regarding additional ones of said plurality of subjects and ones of said plurality of

subjects to enable users to receive ratings and feedback on products and services of interest at column 5, lines 5-10.

As per claim 11, same as claim arguments above and Prohel teaches:

wherein said storing step further comprising storing a policy to guide which sets of ratings are accepted and said receiving step or said merging step is performed dependent on said policy being met (paragraph 25, lines 10-13, user history information may be hidden or visible to all or a subset of users).

As per claim 18, same as claim arguments above and Prohel teaches:

wherein said short-range transmission device utilizes Bluetooth technology(paragraph 17, line 8).

Claims 19-20, are rejected based on the same rationale as claims 10-11.

Claims 13-14, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication Number 2002/0002920 issued to Andrew M. Prohel et al ("Prohel") in view of US Patent Number 6,631,184 issued to Moshe Weiner (Weiner") and further in view of US Patent Application Number 2006/0156337 issued to Eric Thelen et al ("Thelen").

As per claim 13, same as claim arguments above and Prohel and Weiner do not explicitly teach broadcasting a request for ratings. Thelen does teach this limitation (at paragraph 85 requesting ratings) to exert influence on the programs of other users in the community at paragraph 85, lines 1-4. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Prohel and Weiner with broadcasting a request for ratings to exert influence on the programs of other users in the community at paragraph 85, lines 1-4.

As per claim 14, same as claim arguments above and Prohel and Weiner do not explicitly teach the step of responding to a broadcast of a request for ratings. Thelen does teach this limitation (at paragraph 86 receiving ratings) to exert influence on the programs of other users in the community at paragraph 85, lines 1-4. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Prohel and Weiner with responding to a broadcast of a request for ratings to exert influence on the programs of other users in the community at paragraph 85, lines 1-4.

Claim 22 is rejected based on the same rational as claim 13.

Claim 23 is rejected based on the same rational as claim 14.

Claims 5-7,12,15-17, 21, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication Number 2002/0002920 issued to Andrew M. Prohel et al ("Prohel") and US Patent Number 6,631,184 issued to Moshe Weiner (Weiner") as applied to claim 1,10,19 above, and further in view of US Patent 6,317,881 issued to Anthony A. Shah-Nazaroff et al ("Shah-Nazaroff").

As per claim 5, same as claim arguments above and Pahel in view of Weiner do not explicitly teach wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing weighted rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings Shah-Nazaroff teaches this limitation (column 5, lines 54-column 6, lines 6,as viewer characteristics and weighted average of the ratings) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing weighted rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

Art Unit: 2167

As per claim 6, same as claim arguments above and Pahal in view of Weiner do not explicitly teach wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing individual rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings. Shah-Nazaroff teaches this limitation (column 5, lines 54-column 6, lines 6, as viewer characteristics and weighted average of the ratings) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing individual rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

As per claim 7, same as claim arguments above and Pahal in view of Weiner do not explicitly teach wherein said processor is configured to update ones of said first set of ratings by merging, for each item, a second semantic tree from said second set of ratings into a first semantic tree from said first set of ratings, then calculating a new

Art Unit: 2167

weighted rating based on said first semantic tree . Shah-Nazaroff teaches this limitation (column 5, lines 54-65, as combine weighted ratings) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said processor is configured to update ones of said first set of ratings by merging, for each item, a second semantic tree from said second set of ratings into a first semantic tree from said first set of ratings, then calculating a new weighted rating based on said first semantic tree to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

As per claim 12, same as claim arguments above and Pahel in view of Weiner do not explicitly teach wherein said merging step is performed dependent on said second set of ratings having a similarity of at least a given level to said first set of ratings. Shah-Nazaroff teaches this limitation (column 5, lines 40-65). to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said merging step is performed dependent on said second set of ratings having a similarity of at least a given level to said first set of ratings to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

As per claim 15, same as claim arguments above and Pahel in view of Weiner do not explicitly teach wherein said merging step comprises receiving a plurality of individual responses for each of ones of said plurality of subjects and storing said plurality of individual responses in a semantic tree network for said subject. Shah-Nazaroff teaches

Art Unit: 2167

this limitation (column 5, lines 54-59, receiving multiple viewer rating) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said merging step comprises receiving a plurality of individual responses for each of ones of said plurality of subjects and storing said plurality of individual responses in a semantic tree network for said subject to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

As per claim 16, same as claim arguments above and Shah-Nazaroff teaches wherein a rating for one of said plurality of subjects is calculated by summing all collected responses in a semantic tree network for said one of said plurality of subjects (column 5, lines 40-65, combining aggregate ratings).

As per claims 17, 26 same as claim arguments above and Profel and Weiner do not explicitly teach wherein said merging step comprises calculating a rating by summing a first rating of said first set of ratings and a corresponding second rating of said second set of ratings, using a weighting factor. Shah-Nazaroff teaches this limitation (column 5, lines 40-65) to determine the likelihood of interest to the user.. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said merging step comprises calculating a rating by summing a first rating of said first set of ratings and a corresponding second rating of said second set of ratings, using a weighting factor to determine the likelihood

of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

Claims 24-25 are rejected based on the same rationale as claims 15-16.

Response to Arguments

5. Applicant's arguments, see interview summary dated May 4, 2007, with respect to the Advisory Action mailed April 3, 2007 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of US Patent Application Publication Number 2002/0002920 issued to Andrew M. Prohel et al ("Prohel") in view of and US Patent Number 6,631,184 issued to Moshe Weiner (Weiner") and further in view of US Patent 6,317,881 issued to Anthony A. Shah-Nazaroff et al ("Shah-Nazaroff").

Applicant's arguments filed October 20, 2006 have been fully considered but they are not persuasive.

Regarding claim 1, Applicant argues "In Prohel, any received rating information has already been aggregated, the reference does not disclose or suggest that a processor in the device is configured for "updating ones of said set of ratings ... by merging with corresponding ones of said second set of ratings". Examiner finds Prohel does teach this limitation as (receiving at the device to review received digital content having user history information (paragraph 28), viewing aggregate ratings of the

Art Unit: 2167

received digital content (paragraph 30) and "as content is passed from device to device, a history is stored as metadata associated with the actual digital content (paragraph 32). In addition, user history information of each user is attached to the content as aggregated user history and may additionally be stored on the user device (paragraph 25-26).

Regarding claim 4, Applicant argues prior art of record does not teach a first set of indications of interest regarding additional ones ... Examiner respectfully disagrees and finds Weiner does teach this limitation at column 3, lines 23-29 as creating and viewing feedback.

Regarding claim 10, Applicant argues prior art of record does not teach "a first set of ratings for ones of a plurality of subjects and a first set of indications of interest regarding ones of said plurality of subjects" and " updating ones of said first set of ratings and ones of said first set of indications of interest by merging with corresponding ones of said second set of ratings". Prohel teaches storing, on a portable computing device, a first set of ratings for ones of a plurality of subjects (paragraph 19-20, user history information editor to associate ratings and comments concerning digital content) and updating ones of said first set of ratings and ones of said first set of indications of interest by merging with corresponding ones of said second set of ratings. Examiner finds Prohel does teach this limitation as (receiving at the device to review received digital content having user history information (paragraph 28) viewing aggregate ratings of the received digital content (paragraph 30) and "as content is passed from device to

Art Unit: 2167

device , a history is stored as metadata associated with the actual digital content (paragraph 32).

Contact Information


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan F. Rayyan whose telephone number is 571-272-1675. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SR
5/30/2007



JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100